

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE:

Joseph E. Frontzak

Debtor

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)  
)  
)  
)  
)  
)

Bankruptcy No. 08 B 08580  
Chapter 11

Judge A. Benjamin Goldgar

To: See Attached List

**NOTICE OF MOTION**

**PLEASE TAKE NOTICE** that on **June 15, 2009**, at the hour of 10:00 A.M., or as soon thereafter as counsel may be heard, I shall appear before the honorable A. Benjamin Goldgar in Courtroom 613 of the United States Bankruptcy Court, 219 S. Dearborn St., Chicago, Illinois, or any other judge sitting in his place and stead, and shall then and there present the attached **Motion to Enforce Confirmed Plan and for Sanctions**, a copy of which is hereby served upon you. You may appear if you so choose.

David P. Lloyd  
Grochocinski, Grochocinski and Lloyd, Ltd.  
1900 Ravinia Place  
Orland Park IL 60462  
(708) 226-2700  
Fax: (708) 226-9030

**CERTIFICATE OF SERVICE**

I, David P. Lloyd, an attorney, certify that I caused a copy of the foregoing Notice and Motion to be served on the parties listed on the attached service list by electronic notice where indicated, or by first class mail by depositing with the United States Postal Service, Orland Park, Illinois, postage prepaid, prior to 5:00 P.M., this 5th day of June, 2009.

/s/ David P. Lloyd  
David P. Lloyd

**Joseph E. Frontzak**  
**08 B 08580**  
**Service List**

**U.S. Trustee**  
USTPRRegion11.ES.ECF@usdoj.gov

**Michael L. Sherman**  
shermlaw1@aol.com

**Rachael A. Stokas**  
ND-Two@il.cslegal.com

Alan H. Zenoff  
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53 W. Jackson Blvd.  
Suite 1140  
Chicago IL 60604-3610

B.J. Maley  
Codilis & Associates, P.C.  
15 W 030 North Frontage Rd.  
Suite 100  
Burr Ridge IL 60527

McCalla, Raymer et al.  
1544 Old Alabama Rd.  
Roswell GA 30076

Wells Fargo  
P.O. Box 14411  
Des Moines IA 50306-3411

Wells Fargo Home Mortgage  
c/o Illinois Corporation Service  
801 Adlai Stevenson Dr.  
Springfield IL 62703

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**MOTION TO ENFORCE PLAN AND FOR SANCTIONS**

NOW COMES the Debtor, Joseph E. Frontzak, by and through his attorneys, Grochocinski, Grochocinski & Lloyd, Ltd., and moves this honorable Court to enforce the terms of the confirmed plan herein, and for sanctions under Section 362(h) of the Bankruptcy Code, and in support thereof states as follows:

1. The Debtor filed a voluntary Chapter 11 petition on April 9, 2008.
2. Among the creditors in this case is Wells Fargo Home Mortgage, which holds a first and second mortgage on the Debtor's real estate, located at 1325 Oceana Drive North, Naples, Florida.
3. On January 12, 2009, the Court confirmed the Debtor's Plan, which provided that the first and second mortgages in favor of Wells Fargo would be paid over 30 years, at 3% per annum interest; the payments to be \$953.00/month (plus escrow for taxes and insurance) on the first mortgage, and \$123.00/month on the second mortgage.
4. Since confirmation of the Plan, the Debtor has tendered each and every monthly payment required by the confirmed Plan to Wells Fargo.
5. Wells Fargo has accepted and cashed each and every payment sent by the Debtor post-confirmation.
6. Notwithstanding confirmation of the Plan, Wells Fargo continues to bill the Debtor for

the original monthly payment amount on its first mortgage, continues to assess late charges, and has refused to properly apply the payments sent by the Debtor to its indebtedness. A copy of the most recent statement, dated 5/20/09, is attached hereto.

7. Wells Fargo's actions are in violation of the provisions of the confirmed Plan.

8. Wells Fargo, in continuing to demand payment of its claim at an interest rate higher than provided in the confirmed Plan, and at monthly payments higher than provided in the confirmed Plan, and in continuing to send mortgage statements, is willfully violating the automatic stay under Section 362(b).

9. The Debtor has suffered actual monetary damages, including attorneys' fees and costs, in enforcing the terms of the confirmed Plan and in enforcing the automatic stay. Copies of the correspondence sent by Debtor's counsel to offices of Wells Fargo, and to local counsel representing Wells Fargo, are attached hereto.

WHEREFORE the Debtor prays as follows:

1. That Wells Fargo Home Mortgage be ordered to comply with the terms of the confirmed Plan, adjust its billing on the first and second mortgages on the Florida real estate, and properly apply the payments sent since confirmation of the Plan;

2. For sanctions for Wells Fargo's willful violation of the terms of the confirmed Plan and the automatic stay, including an award of the fees and costs incurred by Debtor's counsel in enforcing the Plan and the automatic stay.

Respectfully submitted,  
Joseph Frontzak

By: /s/ David P. Lloyd  
One of his attorneys

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